

James L. Potter and Charlene E. Potter
5721 Tropic Mist St.
Las Vegas, Nevada 89130
Telephone (702) 633-7092
Plaintiffs in Proper Person

705 DE 15 A 11-08

UNITED STATES DISTRICT COURT
District of Nevada

JAMES L. POTTER AND

CHARLENE E. POTTER

PLAINTIFFS

vs.

BANK OF AMERICA HOME LOANS

DEFENDANT

Case No.: 2:10-cv-02095-GMN-LRL

RESPONSE TO PETITION FOR REMOVAL
OF ACTION TO FEDERAL COURT
PURSUANT TO
28 USC §§ 1331, 1332, 1441(b) and 1446

James L. Potter and Charlene E. Potter, Plaintiffs, in proper person, submit their response to the Petition for Removal of Action to Federal Court (the "Petition") as filed by Defendant, Bank of America Home Loan Servicing LP, ("BAC") on December 1, 2010. Defendant's claim that Bank of America Home Loans was improperly named was not proven. Plaintiffs have documented proof that Bank of America Home Loans is the stated owner of the subject loan as stated on the Plaintiffs 2009 Form 1098 Mortgage Interest Statement (see Exhibit "A"). BAC Home Loans Servicing, LP, as the Removing Defendant, should not be allowed to file the Petition for they are one of many named servicing entities owned and controlled by Bank of America, N.A, and its subsidiary Bank of America Home Loans. In response to this removal Petition, Plaintiffs state as follows:

Diversity and Federal Question Jurisdiction

Plaintiffs agree with the jurisdiction outlined and agree that jurisdiction lies within this Court and agree based on Jurisdiction to have a Federal Court hear this case.

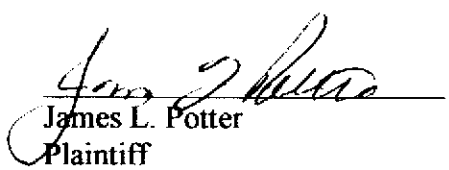
Conclusion

Plaintiffs will prove that Defendant is not or has never been the Holder in Due Course on the subject Loan and has not proven its Proof of Claim; that Defendant does not possess or has ever possessed the original Deed of Trust mortgage, the original Note, or any other original documentation. Defendant has on more than one occasion sent Plaintiffs Counterfeit copies of some of the above mentioned documents. Plaintiffs contend that the Defendant, Bank of America Home Loans, does not know even what part of the world these documents might reside and how many times the above mentioned loan may have been paid in full. Plaintiffs will show that Defendant has had three separate opportunities to cure and by acquiescence failed to cure and that this alludes to Fraud.

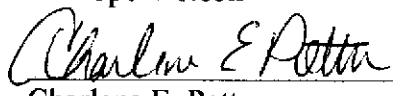
As there appears to be a dispute of who the Defendant in this case should be, Plaintiffs will file concurrent with this response an Amended Complaint naming additional Defendants including MERS, Bank of America, N.A., Bank of America Home Loans, and Bank of America Homes Loans Servicing, L.P..

Plaintiffs Amended Complaint will show additional Cause of Action.

Dated this 15 day of December, 2010.


James L. Potter
Plaintiff

In Proper Person


Charlene E. Potter
Plaintiff

In Proper Person

EXHIBIT "A"



Home Loans

CUSTOMER SERVICE
PO BOX 5170
SIMI VALLEY, CA 93062-5170

Date Prepared
01/01/2010

Account Number 103484653

Property Address
5721 TROPIC MIST STREET

IMPORTANT TAX INFORMATION ENCLOSED

0090807 01 AV 0.335 **AUTO 5 1 3743 89130-156721 -C014 -P90897

JAMES L & CHARLENE E POTTER

5721 Tropic Mist St
Las Vegas, NV 89130-1567

Active Loan Mortgage Interest Statement**INSTRUCTIONS FOR PAYER/BORROWER**

A person (including a financial institution, a governmental unit, and a cooperative housing corporation) who is engaged in a trade or business and, in the course of such trade or business, received from you at least \$600 of mortgage interest (including certain points) on any one mortgage in the calendar year must furnish this statement to you.

If you received this statement as the payer of record on a mortgage on which there are other borrowers, furnish each of the other borrowers with information about the proper distribution of amounts reported on this form. Each borrower is entitled to deduct only the amount he or she paid and points paid by the seller that represent his or her share of the amount allowable as a deduction. Each borrower may have to include in income a share of any amount reported in box 3.

If your mortgage payments were subsidized by a government agency, you may not be able to deduct the amount of the subsidy. See the instructions for Form 1040, Schedule A, C, or E for how to report the mortgage interest. Also, for more information, see Pub. 936, Home Mortgage Interest Deduction, and Pub. 535, Business Expenses.

Account number. May show an account or other unique number the lender has assigned to distinguish your account.

Box 1. Shows the mortgage interest received during the year. This amount includes interest on any obligation secured by real property, including a home equity, line of credit, or credit card loan. This amount does not include points, government subsidy payments, or seller payments on a "buy-down" mortgage. Such amounts are deductible by you only in certain circumstances. **Caution:** If you prepaid interest in

2009 that accrued in full by January 15, 2010, this prepaid interest may be included in box 1. However, you cannot deduct the prepaid amount in 2009 even though it may be included in box 1. If you hold a mortgage credit certificate and can claim the mortgage interest credit, see Form 8396, Mortgage Interest Credit. If the interest was paid on a mortgage, home equity, line of credit, or credit card loan secured by your personal residence, you may be subject to a deduction limitation.

Box 2. Not all points are reportable to you. Box 2 shows points you or the seller paid this year for the purchase of your principal residence that are required to be reported to you. Generally, these points are fully deductible in the year paid, but you must subtract seller-paid points from the basis of your residence. Other points not reported in box 2 may also be deductible. See Pub. 936 to figure the amount you can deduct.

Box 3. Do not deduct this amount. It is a refund (or credit) for overpayment(s) of interest you made in a prior year or years. If you itemized deductions in the year(s) you paid the interest, you may have to include part or all of the box 3 amount on the "Other income" line of your 2009 Form 1040. No adjustment to your prior year(s) tax return(s) is necessary. For more information, see Pub. 936 and *Itemized Deduction Recoveries* in Pub. 525, Taxable and Nontaxable Income.

Box 4. Shows mortgage insurance premiums which may qualify to be treated as deductible mortgage interest. See the Schedule A (Form 1040) instructions.

Box 5. The interest recipient may use this box to give you other information, such as the address of the property that secures the debt, real estate taxes, or insurance paid from escrow.

☐ **CORRECTED (if checked)**

RECIPIENT'S/LENDER'S name, address, and telephone number BANK OF AMERICA, N.A. CUSTOMER SERVICE PO BOX 5170 SIMI VALLEY, CA 93062-5170 (800) 659-6607		* Caution: The amount shown may not be fully deductible by you. Limits based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person.	OMB No. 1545-0901 2009 Form 1098	Mortgage Interest Statement
RECIPIENT'S federal identification no. 94-1687665	PAYER'S social security number 506-84-0992	Copy B For Payer The information in boxes 1, 2, 3, and 4 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.		
PAYER'S/BORROWER'S name, Street address (including apt. no.), City, state, and ZIP code JAMES L & CHARLENE E POTTER 5721 Tropic Mist St Las Vegas, NV 89130-1567		1 Mortgage interest received from payer(s)/borrower(s) \$ 19,064.25		
		2 Points paid on purchase of principal residence \$ 0.00		
		3 Refund of overpaid interest \$ 0.00		
		4 Mortgage insurance premiums \$ 0.00		
Account number (see instructions) 103484653		5		

Form 1098

(keep for your records)

Department of the Treasury - Internal Revenue Service

2009 STATEMENT SUMMARY

Total Interest paid in 2009	\$19,064.25	Beginning escrow balance	\$894.59
Property taxes paid in 2009	\$3,049.45	Ending escrow balance	\$829.01
Ending principal balance	\$440,272.83	FHA/VA case number	Not applicable

IMPORTANT IRS REGULATIONS

YOU SHOULD CONSULT WITH THE IRS OR YOUR TAX ADVISOR IF YOU HAVE ANY QUESTIONS.

BANK OF AMERICA, N.A. DOES NOT OFFER TAX ADVICE.

Please verify that the Social Security Number (SSN) listed on the IRS Tax form is correct (see previous page). If the SSN is not correct, please provide us with the correct number immediately by writing to us at the address below or calling us at (800) 669-6607. If you fail to provide us your correct SSN, you are subject to a \$50 penalty imposed by the IRS and backup withholding of interest paid to you. Note: Please include your name and account number on all communications to us.

BANK OF AMERICA, N.A.
CUSTOMER SERVICE
PO BOX 5170
SIMI VALLEY, CA 93062-5170

CANCELLATION OF MORTGAGE INSURANCE

Mortgage insurance (MI) coverage is typically required on any loan where the loan amount is greater than 80% of the value of the property for primary residences or 65%-70% of the value of the property for secondary residences, investment properties, or if the loan has not met certain investor seasoning and/or requirements. MI coverage protects lenders and others against financial loss when borrowers default. If you have MI on your loan, under certain circumstances, and if certain conditions are satisfied, you have the right to cancel MI or require that MI automatically terminate. Cancellation or termination of MI does *not* affect any obligation you may have to maintain other types of insurance.

Borrower Requested Cancellation of MI: If your loan is subject to the Homeowners' Protection Act of 1998 (HPA), you have the right to request that MI be canceled on or after either of these dates (**these dates are both called the "Cancellation Date."**): (1) the date the principal balance of your loan is first *scheduled* to reach 80% of the original value of the property or (2) the date the principal balance *actually* reaches 80% of the original value of the property. MI will only be canceled on these dates if (1) you submit a written request for cancellation; (2) you have a good payment history; and (3) we receive, if requested and at your expense, (i) evidence that the value of the property has not declined below its original value and (ii) certification that there are no subordinate liens on the property. A "good payment history" means no payments 60 or more days past due within two years and no payments 30 or more days past due within one year of the later of: (i) the Cancellation Date or (ii) **the date you request cancellation of your MI**. "Original value" means the lesser of the contract sales price of the property or the appraised value of the property at the time the loan was closed. Even if your loan does not come under the parameters of the HPA, your state or the investor on your loan may have guidelines allowing for the deletion of MI.

Automatic Termination of MI: If you are current on your loan payments, MI will automatically terminate on the date the principal balance of your loan is first *scheduled* to reach 78% of the original value of the property. If you are *not* current on your loan payments as of that date, MI will automatically terminate on the first day of the first month after the date when you become current on your payments. In any event, MI will not be required on your mortgage loan beyond the date that is the midpoint of the amortization period for the loan if you are current on your payments on that date.

For more information concerning your cancellation rights, if any, and the conditions and procedures to effect cancellation, please send your written request for cancellation (be sure to include your name and account number) to the following address, or call us at (800) 669-6607:

BANK OF AMERICA, N.A.
Attn: MI DELETION DEPT CA6-914-01-13
P.O. BOX 940848
SIMI VALLEY, CA 93063

TRANSACTION HISTORY FOR 2009

Date	Description	Pmt/Mo	Amount	Principal	Interest	Escrow	Optional Insurance	Buydown Assistance	Late Charge	Partial Balance
2009	Beginning Balance			\$451,355.26		\$894.59				\$0.00
01/05/2009	REGULAR PAYMENT	01/2009	\$2,501.80	\$19.25	\$1,927.66	\$554.89	\$0.00	\$0.00	\$0.00	\$0.00
01/05/2009	MISC. POSTING	01/2009	\$516.64	\$516.64	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
01/14/2009	PMI PMT MONTHLY	01/2009	\$247.33	\$0.00	\$0.00	\$247.33	\$0.00	\$0.00	\$0.00	\$0.00
02/03/2009	REGULAR PAYMENT	02/2009	\$2,501.80	\$115.46	\$1,831.45	\$554.89	\$0.00	\$0.00	\$0.00	\$0.00